

DAVID BURCHARD  
CHAPTER 13 TRUSTEE  
P.O. BOX 8059  
FOSTER CITY, CA 94404  
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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SANTA ROSA DIVISION**

In re:

JESUS AVILA-ORTEGA  
2325 ORLEANS ST  
SANTA ROSA, CA 95403

###-##-6392

Debtor(s).

Case No.: 10-1-2397AJ13  
Chapter 13

NOTICE BY DAVID BURCHARD, CHAPTER 13  
TRUSTEE, OF CHAPTER 13 PLAN DEFICIENCIES

**341 MEETING OF CREDITORS:**

Date: 08/02/2010  
Time: 8:00 AM  
Place: Office of the United States Trustee  
777 Sonoma Ave., First Floor, #116  
Santa Rosa, CA 95404

**CONFIRMATION HEARING:**

Date: 09/20/2010  
Time: 1:30 PM  
Place: United States Bankruptcy Court  
99 South E Street  
Santa Rosa, CA 95404

DAVID BURCHARD, Chapter 13 Trustee in the above-entitled action, cannot recommend Confirmation of the Chapter 13 Plan proposed hereunder by Debtor(s) for the following reason(s).

1. Sections 3 and 4 A) of the debtor's plan propose monthly payments totaling \$170.06, while the plan payment is \$188.00. The Trustee is unable to administer this provision and requests that debtor's counsel amend the plan.
2. Debtor has not listed in Section 2 of an Adequate Protection Payment for the secured personal property claim of Wffinancial, as listed in Schedule D. 11 U.S.C.§1326(a)(1)(C) provides that "debtor shall commence making payments....in the amount.....that provides adequate protection directly to a creditor holding an allowed claim secured by personal property.....". The Trustee requests that debtor's counsel file an amended plan providing for adequate protection payments on all secured personal property debt.
3. Section 11 of the plan indicates the lien held on real property by Bank of America shall be voided. The Trustee requests that debtor's Motion to Avoid Lien is filed and resolved prior to confirmation.
4. Schedule I fails to list the name and address of the debtor's employer. The Trustee requests that debtor's counsel amend Schedule I and provide this omitted information.

5. Schedule I lists the non-filing spouse's self-employment income on line 1. The Trustee requests that debtor's counsel amend Schedule I and list this income on line 7. Additionally, the Trustee requests that debtor's counsel provide the dba of the non-filing spouse.
6. Schedule J reflects that real property taxes and insurance are not included in the mortgage payment. There is no provision in this schedule for these expenses. The Trustee requests that debtor's counsel amend Schedule J and provide this omitted expenses.
7. The Trustee requests copies of all payment advices received in the six months prior to the filing of the Bankruptcy (***December 2009 through May 2010***), or, in the alternative, a filed debtor's declaration that details why these advices cannot be provided.
8. The Trustee requests a ***signed*** copy of the 2009 federal tax return, to be received no later than four business days prior to the date of the first scheduled 341 Meeting of Creditors.
9. The Trustee requests that the non-filing spouse provide proof of income for the six months prior to the filing of the Bankruptcy.

PLEASE TAKE NOTICE that, without prior notice, at the above-referenced confirmation hearing date assigned to your Chapter 13 case, the Court may DISMISS the above-referenced case upon making a determination that Debtor(s) has/have not presented a feasible Plan, Debtor(s) has/have not made the required payments under the Plan, Debtor(s) has/have violated the statutory debt limitations set for a Chapter 13 case, Debtor(s) has/have not filed this proceeding in good faith, Debtor(s) has/have not provided documents and/or Schedules and Plan as required under the Bankruptcy code, and/or Debtor(s) has/have not provided the Trustee with Payment Advices or Declarations.

Dated: August 3, 2010

DAVID BURCHARD

DAVID BURCHARD, Chapter 13 Trustee

### Certificate of Mailing

I, WENDY KARNES, the undersigned, certify that:

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 393 Vintage Park Drive, Suite #150, Foster City, CA. On the date set forth below, I served a copy of the NOTICE BY DAVID BURCHARD, CHAPTER 13 TRUSTEE, OF CHAPTER 13 PLAN DEFICIENCIES, and this Certificate of Mailing, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

JESUS AVILA-ORTEGA  
2325 ORLEANS ST  
SANTA ROSA, CA 95403

EVAN LIVINGSTONE  
LAW OFFICES OF EVAN LIVINGSTONE  
P O BOX 6107  
SANTA ROSA, CA 95406-0000

United States Trustee  
235 Pine Street, Suite 700  
San Francisco, CA 94104

Dated: August 3, 2010

WENDY KARNES

WENDY KARNES